

House Bill 198

By: Representatives Benfield of the 85th, Brooks of the 63rd, Stephenson of the 92nd, Mitchell of the 88th, McClinton of the 84th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to create the Georgia Health Care Bond Authority as a public corporation and an instrumentality of the State of Georgia; to state findings and purposes; to define certain terms; to provide for powers of the authority; to provide for the membership of the authority; to authorize the issuance of revenue bonds of the authority, payable from the revenues, fees, and earnings of the authority; to authorize the collection and pledging of the revenues and earnings of the authority for the payment of such bonds and to authorize the execution of trust indentures to secure the payment thereof and to define the rights of the holders of such bonds or obligations; to provide that no debt of the State of Georgia shall be incurred in the exercise of any powers granted by this Act; to provide for trust funds; to make the bonds of the authority exempt from taxation; to authorize the issuance of refunding bonds; to fix the venue of actions relating to any provision of this Act and to provide for the validation of bonds issued by the authority; to provide for immunity from liability; to exempt property of the authority from levy and sale; to confine the activities of the authority to the territorial limits of the State of Georgia; to prohibit the authority from levying any tax; to provide for construction; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new chapter to read as follows:

"CHAPTER 8A

31-8A-1.

This chapter shall be known and may be cited as the 'Georgia Health Care Bond Authority Act.'

1 31-8A-2.

2 The General Assembly has determined that there are many Georgia citizens who cannot
3 afford health care insurance and do not have any financial protection for the illnesses and
4 injuries that they may endure. Many other Georgia citizens can only afford limited amounts
5 of health care insurance and are underinsured for their health care needs. The purpose of
6 these provisions is to create the Georgia Health Care Bond Authority with the power to
7 issue tax-exempt health care bonds to fund health care services for Georgia citizens who
8 are uninsured or who have inadequate health care insurance.

9 31-8A-3.

10 As used in this chapter, the term:

11 (1) 'Authority' means the Georgia Health Care Bond Authority created in Code Section
12 31-8A-4.

13 (2) 'Health care services' means any health related service provided by a licensed health
14 care professional in the State of Georgia.

15 (3) 'Revenue bonds' means revenue bonds issued by the Georgia Health Care Bond
16 Authority pursuant to the terms of this chapter and Article 3 of Chapter 82 of Title 36, the
17 'Revenue Bond Law.'

18 31-8A-4.

19 There is hereby created a body corporate and politic to be known as the Georgia Health
20 Care Bond Authority which shall be deemed to be a political subdivision of the State of
21 Georgia and a public corporation and by that name, style, and title shall be known. Such
22 corporation shall be separate and distinct from any public corporation heretofore created
23 by the General Assembly and shall be an instrumentality of the State of Georgia exercising
24 governmental powers. All property owned by such corporation shall be public property
25 held and owned for governmental purposes and shall be exempt from taxation.

26 31-8A-5.

27 The Georgia Health Care Bond Authority shall have the power:

28 (1) To hold, own, and convey real and personal property;

29 (2) To sue and be sued;

30 (3) To have and to use a seal and to alter the same at pleasure;

31 (4) To exercise the powers conferred upon a public corporation or a public authority by
32 Article IX, Section III, Paragraph I of the Constitution of Georgia, such authority being
33 expressly declared to be a public corporation or a public authority within the meaning of
34 such provision of the Constitution of Georgia;

- 1 (5) To accept gifts and bequests for its corporate purposes;
- 2 (6) To appoint, select, and employ officers, agents, and employees, including financial
- 3 and health care experts, fiscal agents, and attorneys, and to fix their compensation;
- 4 (7) To accept loans and grants of money or property of any kind from the United States,
- 5 the State of Georgia, or any political subdivision of the State of Georgia;
- 6 (8) To borrow money for any of its corporate purposes and to issue revenue bonds
- 7 payable solely from funds or revenues of the authority pledged for that purpose and to
- 8 pledge and assign any of its revenues, income, rent, charges, and fees to provide for the
- 9 payment of the same and to provide for the rights of the holders of such revenue bonds;
- 10 (9) To make such rules and regulations governing its employees and property as it may
- 11 in its discretion deem proper; and
- 12 (10) To make such rules and regulations governing the eligibility for and issuance of
- 13 grants for health care services as it may in its discretion deem proper.

14 31-8A-6.

15 The Georgia Health Care Bond Authority shall consist of five members who shall be

16 residents of the State of Georgia, who shall be eligible to succeed themselves, and who

17 shall be appointed by the Governor. The members of the authority shall hold office for

18 terms of four years and until their successors shall be appointed and qualified; provided,

19 however, that of the original members appointed to the authority, three shall be appointed

20 for terms of one year each and two shall be appointed for terms of three years. Upon the

21 expiration of each of such initial terms, the successors shall be appointed for terms of four

22 years. Any vacancy on the authority shall be filled for the unexpired term by the Governor.

23 Immediately after their appointment, the members of the authority shall enter upon their

24 duties. Three members of the authority shall constitute a quorum, and no vacancy on the

25 authority shall impair the right of the quorum to exercise all the rights and perform all the

26 duties of the authority and, in every instance, a majority vote of a quorum shall authorize

27 any legal act of the authority, including all things necessary to authorize and issue revenue

28 bonds. The Georgia Health Care Bond Authority shall elect one of its members as

29 chairperson and shall elect a secretary and treasurer who need not necessarily be a member

30 of the authority. The members of the authority shall not be entitled to compensation for

31 their services but shall be entitled to and shall be reimbursed for their actual expenses

32 necessarily incurred in the performance of their duties. The authority shall make rules and

33 regulations for its own government. It shall have perpetual existence. Any change in name

34 or composition of the authority shall in no way affect the vested rights of any person under

35 the provisions of this chapter or impair the obligations of any contracts existing under this

36 chapter.

1 31-8A-7.

2 The authority shall have power and is authorized from time to time to provide by resolution
3 for the issuance of negotiable revenue bonds in the manner provided by Article 3 of
4 Chapter 82 of Title 36 for the purpose of paying all or any part of the cost of any health
5 care services approved by the authority or for the purpose of refunding, as provided in this
6 chapter, any such bonds of the authority previously issued. The principal of and interest
7 on such revenue bonds shall be payable solely from revenues and earnings of the authority.
8 The revenue bonds of each issue shall be issued and validated under and in accordance with
9 the provisions of Article 3 of Chapter 82 of Title 36.

10 31-8A-8.

11 All revenue bonds issued under the provisions of this chapter shall have and are declared
12 to have all the qualities and incidents of negotiable instruments under the negotiable
13 instruments law of this state. Such bonds are declared to be issued for an essential public
14 and governmental purpose, and such bonds and the income thereof shall be exempt from
15 all taxation within this state.

16 31-8A-9.

17 Revenue bonds issued under the provisions of this chapter shall not constitute a debt or a
18 pledge of the faith and credit of the State of Georgia, but such bonds shall be payable solely
19 from the revenues and earnings of the authority. The issuance of such revenue bonds shall
20 not directly, indirectly, or contingently obligate the State of Georgia to levy or to pledge
21 any form of taxation whatever for the payment thereof. No holder of any bond or receiver
22 or trustee in connection therewith shall have the right to enforce the payment thereof
23 against any property of the State of Georgia nor shall any such bond constitute a charge,
24 lien, or encumbrance, legal or equitable, upon any such property. All such bonds shall
25 contain on their face a recital setting forth substantially the foregoing provisions of this
26 Code section.

27 31-8A-10.

28 In the discretion of the authority, any issue of such revenue bonds may be secured by a trust
29 indenture by and between the authority and a corporate trustee, which may be any trust
30 company or bank having the powers of a trust company within or outside of the State of
31 Georgia. Such trust indenture may pledge or assign revenues and earnings to be received
32 by the authority. Either the resolution providing for the issuance of revenue bonds or such
33 trust indenture may contain such provisions for protecting and enforcing the rights and
34 remedies of the bondholders as may be reasonable and proper and not in violation of law.

1 Such trust indenture may contain such other provisions as the authority may deem
2 reasonable and proper for the security of the bondholders. All expenses incurred in
3 carrying out such trust indenture may be treated as a part of the cost of maintenance and
4 operation of the authority.

5 31-8A-11.

6 The revenues and earnings derived from the sale of revenue bonds may be pledged and
7 allocated by the authority to the payment of the principal and interest on revenue bonds of
8 the authority as the resolution authorizing the issuance of the bonds or the trust indenture
9 may provide. Such funds so pledged, from whatever source received, which pledge may
10 include funds received from one or more or all sources not previously pledged and
11 allocated, shall be set aside at regular intervals, as may be provided in the resolution or trust
12 indenture, into a sinking fund. Such sinking fund shall be pledged to and charged with the
13 payments of the interest upon such revenue bonds as such interest shall fall due, the
14 principal of the bonds as the same shall fall due, the necessary charges of any paying agent
15 or agents for paying principal and interest, and any premium upon bonds retired by call or
16 purchase. The use and disposition of such sinking fund shall be subject to such regulations
17 as may be provided in the resolution authorizing the issuance of the revenue bonds or in
18 the trust indenture, but, except as may otherwise be provided in such resolution or trust
19 indenture, such sinking fund shall be a fund for the benefit of all revenue bonds issued
20 pursuant to such resolution or trust indenture without distinction or priority of one over
21 another.

22 31-8A-12.

23 The authority is authorized to provide by resolution for the issuance of revenue refunding
24 bonds of the authority for the purpose of refunding any revenue bonds issued under the
25 provisions of this chapter and then outstanding, together with accrued interest thereon and
26 any premium required for the payment of such bonds prior to maturity. The issuance of
27 such revenue bonds and all the details thereof, the rights of the holders thereof, and the
28 duties of the authority with respect to the same shall be governed by the foregoing
29 provisions of this chapter insofar as the same may be applicable.

30 31-8A-13.

31 The principal office of the authority shall be in the City of Atlanta and the venue of any
32 action against it shall be in Fulton County. Any action pertaining to the validation of any
33 bonds issued under the provisions of this chapter and for the validation of any contract
34 entered into by the authority shall be brought in the Superior Court of Fulton County, and

1 such court shall have exclusive original jurisdiction of such actions. Service upon the
2 authority of any process, subpoena, or summons shall be effected by serving the same
3 personally upon any member of the authority.

4 31-8A-14.

5 Revenue bonds of the authority shall be confirmed and validated in accordance with the
6 procedure now or hereafter set forth in Article 3 of Chapter 82 of Title 36 as the same now
7 exists or may hereafter be amended. The bonds, when validated, and the judgment of
8 validation shall be final and conclusive with respect to the validity of such bonds against
9 the authority, and the validity of the contract and of the terms and conditions thereof, when
10 validated, and the judgment of validation shall be final and conclusive.

11 31-8A-15.

12 While any of the bonds issued by the authority or any interests in contracts of the authority
13 remain outstanding, the powers, duties, or existence of the authority or of its officers,
14 employees, or agents shall not be diminished or impaired in any manner that will affect
15 adversely the interest and rights of the holders of such bonds or such interests in contracts
16 of the authority. The provisions of this Code section shall be for the benefit of the
17 authority and of the holders of any such bonds and interests in contracts of the authority
18 and, upon the issuance of bonds or the creation of interests in contracts of the authority
19 under the provisions of this chapter, shall constitute a contract with the holders of such
20 bonds or such interests in contracts of the authority.

21 31-8A-16.

22 All moneys received by the authority pursuant to this chapter, whether as proceeds from
23 the sale of revenue bonds or contracts of the authority, as grants or other contributions, or
24 as revenues, income, and earnings, shall be deemed to be the trust funds to be held and
25 applied solely as provided in this chapter and in such resolutions and trust indentures as
26 may be adopted and entered into by the authority pursuant to this chapter.

27 31-8A-17.

28 The exercise of the powers conferred upon the authority under this chapter shall constitute
29 an essential governmental function for a public purpose, and the authority shall be required
30 to pay no taxes or assessments for the use of property or buildings or other income
31 received by the authority. Such tax exemption shall not include an exemption from sales
32 and use tax on property purchased by or for the use of the authority.

1 31-8A-18.

2 The authority shall have the same immunity and exemption from liability for torts and
3 negligence as the State of Georgia, and the officers, agents, and employees of the authority,
4 when in performance of work of the authority, shall have the same immunity and
5 exemption from liability for torts and negligence as officers, agents, and employees of the
6 State of Georgia. The authority may be sued the same as may private corporations on any
7 contractual obligation of the authority.

8 31-8A-19.

9 The property of the authority shall not be subject to levy and sale under legal process.

10 31-8A-20.

11 The scope of the authority's operation shall be limited to the territory embraced within the
12 territorial limits of the State of Georgia, as the same now or may hereafter exist.

13 31-8A-21.

14 This chapter shall not in any way take away from the authority any power which may be
15 conferred upon it by law but is supplemental thereto.

16 31-8A-22.

17 The authority shall not have the right to impose any tax on any person or property.

18 31-8A-23.

19 This chapter shall be liberally construed to effect the purposes hereof."

20 **SECTION 2.**

21 This Act shall become effective upon its approval by the Governor or upon its becoming law
22 without such approval.

23 **SECTION 3.**

24 All laws and parts of laws in conflict with this Act are repealed.